

ESTTA Tracking number: **ESTTA236743**

Filing date: **09/15/2008**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91185968
Party	Plaintiff William R. Goddard Jr.
Correspondence Address	Phillip L. Free, Jr. Crowe & Dunlevy 20 North Broadway, Suite 1800 Oklahoma City, OK 73102 UNITED STATES IPmail@crowedunlevy.com
Submission	Motion to Suspend for Civil Action
Filer's Name	Drew T. Palmer
Filer's e-mail	IPmail@crowedunlevy.com
Signature	/Drew T. Palmer/
Date	09/15/2008
Attachments	Goddard Motion To Suspend for Civil Action.pdf ( 11 pages )(252423 bytes )

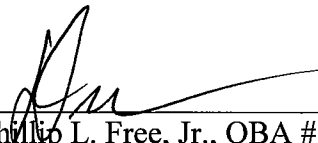
**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE  
THE  
TRADEMARK TRIAL AND APPEAL BOARD**

WILLIAM R. GODDARD, JR..	)	
	)	
Opposer,	)	
	)	
v.	)	Opposition No. 91185968
	)	
GODDARD RANCH WEST, LLC,	)	
a Texas Limited Liability Company	)	
	)	
Applicant.	)	

**MOTION TO SUSPEND FOR CIVIL ACTION**

Opposer, hereby moves that all further proceedings in this opposition be stayed pending resolution of Civil Action No. 08-CV-721-D in the United States District Court of the Western District of Oklahoma. A copy of the Complaint in that action is attached. As indicated by the contents of the Complaint, the issues presented in the subject civil action are identical to those in this opposition.


Accordingly, since this matter will be fully addressed and resolved in the United States District Court, it is respectfully requested that all further proceedings in this opposition be stayed until the civil action is resolved.

	9/16/08
Philip L. Free, Jr., OBA #15765	Date
David M. Sullivan, OBA #18851	
Marie S. Johnston, OBA #19847	
Drew T. Palmer, OBA # 21317	
Crowe & Dunlevy, P.C.	
20 N. Broadway, Suite 1800	
Oklahoma City, OK 73102	
(405) 235-7700	
(405) 239-6651 (fax)	
ATTORNEYS FOR OPPOSER	

**CERTIFICATE OF SERVICE**

I hereby certify that on the 15<sup>th</sup> day of September, 2008, a true and correct copy of the above and foregoing document has been sent via first class mail, postage pre-paid to:

Charles M. Hosch  
Strasburger & Price, LLP  
901 Main Street, Suite 4400  
Dallas, TX 75202



---

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA**

Goddard Ranch,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No.
	)	
Goddard Ranch West, LLC,	)	
	)	
Defendant.	)	
	)	

**COMPLAINT**

Plaintiff, Goddard Ranch, alleges as follows:

**THE PARTIES**

1. Plaintiff, is a sole proprietorship with its principal place of business located at 10879 U.S. Highway 177 Ardmore, Oklahoma 73402.
2. Defendant, Goddard Ranch West, LLC, is a limited liability company organized and existing under the laws of Texas with its principal place of business located at 1928 U.S. Highway 177, Ardmore, Oklahoma 73401.

**JURISDICTION AND VENUE**

3. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338, and 15 U.S.C. § 1121, as a civil trademark action arising under the Lanham Act. Personal Jurisdiction is proper under the Oklahoma long-arm statute, 12 O.S. § 2004(F), based upon Defendants' contacts with this jurisdiction, including Defendants' sale of goods in this state.

4. Venue lies in this district pursuant to 28 U.S.C. § 1391, because the defendant Goddard Ranch West, LLC is subject to personal jurisdiction within this judicial district by way of having a registered agent, the Oklahoma Secretary of State, within this judicial district.

### **FACTS**

The allegations of paragraphs 1-4 are repeated and realleged as if set forth fully herein.

5. Plaintiff owns and operates various livestock and ranching businesses, including a commercial Hereford and F-1 replacement cow operation and a quarter horse breeding operation, at its principle place of business. Since at least 1988, Plaintiff has continuously used its GODDARD RANCH word mark and its "Paddle G" design mark<sup>1</sup> in connection with its livestock and ranching businesses. On April 15, 2008, Plaintiff filed applications to register the GODDARD RANCH word mark and the Paddle G design mark on the principal register of the United States Patent and Trademark Office (the "USPTO").

6. For over two decades, Plaintiff has advertised its goods and services in various trade publications target at the livestock and ranching industry. Consumers recognize the GODDARD RANCH and Paddle G marks as identifying a distinct source for Plaintiff's goods and services.

7. Defendant operates various livestock and ranching businesses at its principle place of business. Defendant recently began using the GODDARD RANCH

---

<sup>1</sup> A copy of the Plaintiff's Paddle G mark is attached as Exhibit 1.

WEST word mark and the "Paddle GW" design mark<sup>2</sup> in connection with Defendant's livestock and ranching businesses. On February 12, 2008, Defendant applied to register its Paddle GW design mark on the USPTO's principal register, in connection with livestock, namely, horses and cattle.

8. Defendant's use of the GODDARD RANCH WEST mark is creating actual confusion in the marketplace as to the source of Defendant's and Plaintiff's goods and services. On several instances, consumers have contacted the Plaintiff, believing it to be the Defendant. Within the past few months, the Plaintiff has received mail intended for Defendant, but addressed and delivered to the Plaintiff.

9. The confusion caused by Defendant's use of the GODDARD RANCH WEST and Paddle GW marks has and will continue to damage Plaintiff's business.

**COUNT 1:  
FALSE DESIGNATION OF ORIGIN AND FALSE DESCRIPTION IN  
VIOLATION OF 15 U.S.C. § 1125(A)**

The allegations of paragraphs 1-8 are repeated and realleged as if set forth fully herein.

10. Defendant's use of the GODDARD WEST RANCH and Paddle GW marks is a use in interstate commerce of words and/or symbols, a false designation of origin, and/or a false description or representation. Such use has misled and deceived, and will continue to mislead and deceive, the public into believing that the Defendant's goods and services originate from the Plaintiff, is licensed by the Plaintiff, or is in some way sanctioned by or otherwise affiliate with, the Plaintiff.

---

<sup>2</sup> A copy of the Defendant's Paddle GW mark is attached as Exhibit 2.

11. Defendant's unauthorized association of its goods and services with the Plaintiff has resulted in profits to the Defendant and has thereby deprived the Plaintiff of revenue to which it is entitled.

12. By so imitating, counterfeiting and infringing the Plaintiff's marks in interstate commerce, the Defendant has violated Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).

13. By reason of the foregoing, the Plaintiff has been injured in an amount not yet ascertained and is entitled to the remedies provided for in 15 U.S.C. § 1116 *et seq.*

**COUNT 2:**

**DECEPTIVE TRADE PRACTICE IN VIOLATION OF 78 O.S. § 51 ET SEQ.**

The allegations of paragraphs 1-12 are repeated and realleged as if set forth fully herein.

14. Defendant, through its use of the GODDARD RANCH WEST and Paddle GW marks has passed off its goods and services as those of the Plaintiff.

15. Defendant, through its use of the GODDARD RANCH WEST and Paddle GW marks has knowingly made a false representation as to the source, sponsorship, approval or certification of its goods and services.

16. Defendant, through its use of the GODDARD RANCH WEST and Paddle GW marks has knowingly made a false representation as tot affiliation, connection, association with, or certification by another.

17. Such use by the Defendant was willful and constitutes a deceptive trade practice in violation of the Oklahoma Deceptive Trade Practices Act, 78 O.S. § 51 *et. seq.*

18. By reason of the foregoing, the Plaintiff has been injured in an amount not yet ascertained and is entitled to the remedies set forth in 78 O.S. § 53.

**COUNT 3:  
UNFAIR COMPETITION**

The allegations of paragraphs 1-17 are repeated and realleged as if set forth fully herein.

19. Defendant's use of the GODDARD WEST RANCH and Paddle GW marks constitute passing off, infringement and misappropriation of the Plaintiff's GODDARD RANCH and Paddle G marks, actionable under the laws of unfair competition.

20. By reason of the foregoing, the Plaintiff has been injured in an amount not yet ascertained, and is entitled to monetary and equitable remedies.

**RELIEF REQUESTED**

21. Pursuant to 15 U.S.C. § 1116 and 78 O.S. § 54(A), Plaintiff requests that this Court grant an injunction prohibiting the Defendant from using in commerce the GODDARD WEST RANCH mark, the Paddle GW mark, or any other mark that is likely to be confused with the Plaintiff's GODDARD RANCH and Paddle G marks.

22. Pursuant to 15 U.S.C. § 1117(a) and 78 O.S. § 54, Plaintiff requests that this Court grant it monetary relief in an amount not less than the sum of: (a) the Defendant's profits; (b) all damages sustained by Plaintiff; and (c) the costs of this action.



23. Pursuant to 15 U.S.C. § 1118, Plaintiff requests that all materials and goods upon which Defendant has placed its GODDARD WEST RANCH and Paddle GW mark be delivered up and destroyed.

24. Pursuant to 15 U.S.C. § 1119, Plaintiff requests that the Court order the Director of the USPTO to refuse registration of the Defendant's application (U.S. Serial No. 77,394,954) to register the Paddle GW mark on the principal register.

25. Pursuant to 15 U.S.C. § 1117(a) and 78 O.S. § 54(C), Plaintiff requests that this Court grant Plaintiff its attorneys' fees, costs and expenses.

D. Plaintiff further requests that this Court grant such other relief as it deems just and proper.

**JURY TRIAL DEMANDED**

Respectfully submitted,

s/ Drew T. Palmer

Mack J. Morgan III , OBA #6397

Phillip L. Free Jr., OBA #15765

Drew T. Palmer OBA # 21317

Attorneys for Plaintiff Goddard Ranch

CROWE & DUNLEVY

A Professional Corporation

20 North Broadway

Suite 1800

Oklahoma City, OK 73102-8273

(405) 235-7700

(405) 239-6651 (Facsimile)

drew.palmer@crowedunlevy.com



Exhibit 1



Exhibit 2

